P 20 E

App F IX—4

Previous Reference

1956 57
CM

File No 120-56

Serial Nos 1, 2

Later References

MYSORE GOVERNMENT SECRETARIAT

Serial No: Two

Part B for Dec 56

SUBJECT

This Case Nos 58 & 59 of 1956 on the file of the Dist Judge Shimoga – objections filed by Sri Dr B S Gopala Rao (2nd Dr) and Sri K T Shivappa (5th Dr) Contesting the Validity of the Rule Elections held on 13 6 56 Declared by Dlly

WD 05150—GPB—35 000—18 10 56

L 12932-33 dated 8.12.56

Municipal Comm: Davangere Group
C. S. A. D.

Approves

28/12/56

Mysore Government
Secretariat

File No 4412/1941 of 195

[App F III 2

Serial No

3952/Home

From

The M Comm Davangere Cy-Pty
HC 67/56-57 Dy 29-8-56
Requests permission to engage
a Counsel to defend his Case nos 58 and
59 of 1956 - Objection petition filed
by Sri Dr B V Gopala Rao & Sri K T
Shivappa Contesting the Validity -
the - M Elections held on 13-8-56 -

(1) The M. Comm Davangere has requested permission to engage a Counsel to defend Case nos 58 and 59 on the file of the District Judge, Shimoga, Contesting the Validity of the Municipal Elections held on 13-8-56.

2) The Law Dept may be Consulted

95
31/8

31/8/56

5113
3 SEP

Secy, LSG)

4) For favour of remarks

Law Secy

5/9

(5) Subd Under Rule 11 of the Rules for the conduct of the Legal Affairs of Govt

Sri N S

Note—Cont'd Sheet

EDN & L S G SECRETARY
No 52
1 SEP 1956
GOVERNMENT OF MYSORE

MYSORE GOVERNMENT SECRETARIAT
No.
4 SEP 1956
LAW BRANCH

His case Nos 58 & 59 of 1956 on the file of the

File No District Judge Bijapur — Election petitions defence

Mysore Government Secretariat

Serial No 4412/M.

Municipalities & Local Boards should, as a rule, be left to defend the legality of their own procedings and are not entitled to the advice of the Govt Law officers, (except under special circumstances) Law Department, with Law, therefore, no remarks to the proposal made by the Municipal commissioner, Devangere city Municipality to engage their own Counsel in the his Miscellaneous Cases referred to in the P.M. of. (In the case Municipal Commissioner himself to the returning Officer & his action Law to be defended)

4-9-56 6/9

Law Secy) 7/9/56

Secy (S&G) 7/9/56

6 SEP 1956 GOVERNMENT

EDUCATIONAL & G SECTT 10 SEP 1956 GOVERNMENT OF MYSORE

Addl Secy to dictate

12/9

1) The advice of Law officer has not been sought The proposal is to permit the M Commissioner to ~~engage their~~ incur expn from the M funds to engage a counsel to defend the Returning Officer (i.e himself) in 2 cases contesting the validity of the election The point may kindly be clarified

Law Secy) 18/9

18 SEP 1956 LAW BRANCH

MYSORE GOVERNMENT SECRETARIAT No 18 SEP 1956 LAW BRANCH

2) Submitted This may be referred to Law officer Section

Dy Secy 18-9-56

WD 0260—GPB—P 4 S 1 30 000—21-3 56

Mysore Government
Secretariat

File No

His case Nos 58 & 59/58 on [illegible] [APP F 1112] 25th
Addl Judge, Shimoga.

Serial No

(9) Subd Under Sec 55 of city Municipalities Act (Mysore Act VI of 1933), with the previous sanction of Govt, the Municipal funds can be applied for any (other) purpose, for which the application of such fund is in public interest. The election expenses & the legal expenses connected with the election, can be deemed to be in public interest. It seems therefore that under Sec 55 of the City Municipalities Act, Govt can authorise the meeting of the expenses connected with the defence of the Returning officer (& the Municipal Commissioner) from the Municipal Funds

DC 12-1056 (10) The administrative secretariat 15/10 will kindly enlighten on the two following points with reference to precedents and previous practice —

(1) whether the Municipal council bears the expenses of election to a Municipal council,

(2) whether it is the Municipal council or the Govt that ~~is under a duty~~ holds the election, and

(3) who appoints the Returning officer.

11) Copy of the City Municipal Council Election Rules may also kindly be ~~issued~~ furnished

Asst Secy, Municipal) RG 22/10

22/10/58

Note—Cont'd Sh 6

Serial No

(2) The replies to the Questions are furnished below

" yes The Municipal Commissioner has to bear the expenditure (Election Charges)
It is the Govt that holds the Municipal Elections
The Municipal Commissioner Deputy Commissioner is appointed as Returning Officer for the purposes of Election in City-Municipalities - (Municipal See Rule 2-(a) of the Rules relating to a City-Municipal Council)
A Copy of the Rules as also put up as requested
Now the file may be referred to the Law Dept.

25/24/4

Referee - (10) and (11) supra

Ly 28/10

(13)

Asst Secy)

26/5/54

I do not find the Rules in the file put up
26/5/54

A Copy of the Rules called for at Para 10 may be made available
Sept. Municipal A

Ly 26/

A Copy of the Rules as put up
25/27/4 Supdt Laws

Ly 29/10

Send with a copy of the Election Rules
Ly 29/

Through advt

(14) The point for consideration is stated in para 7. Whether expenses in connection with the election of a municipal council and incidental to such election ought properly to be charged on Municipal funds, as has been the practice, Section 55 of the Act unfortunately is so worded as not straight

D 0'60 GPS-I / S 130000 -21-5 50

Serial No

off and not the Election expenses as a charge on the Municipal Funds The Funds have to be applied under that section (1) for the purposes specified in Sections 58, 59 and 61 - [Election is not one of the matters specified in those sections (2) for all other purposes in respect of which powers are conferred or duties are imposed on the Municipal Council [No duty is imposed on the Municipal Council to hold the Elections. Under the rules the duty of a Returning Officer is imposed on the Municipal Commissioner and not the Municipal Council] and (3) and in the previous sanction of the Govt., for any other purpose - in the public interest

15 - Expenses of defending the Returning Officer cannot be brought under the first two categories. If at all it could be charged on the Municipal Funds as coming under the Third Category. It seems to have there can be no doubt that an election to a municipal council is in the public interest. The duty of Returning Officer is in connection with the Elections The Election disputes & the defence of the Returning Officer are consequential to it and so the expenses of defending a Returning Officer would be a purpose for which expenditure could be charged on the Municipal funds in the previous sanction of Govt

RG
Law Secy) 29/10/86

SECRETARIAT 65 25 FINANCE 30 OCT 1955 LAW DEPARTMENT

Note—Contn Sheet

Pet Case Nos 58 and 59 of 1956 on the file of the -

District Judge Shimoga - MI Elections Related

File No

Of 195

Mysore Government Secretariat

3 6 56 Davangere

Serial No

16) I agree with the above note of the Branch Secy. If the Returning Officer has to be defended, he cannot be expected to meet the expenses from his pocket. It is but right that his expenses have to be met out of Municipal funds. But occasion same time we may be made that Municipality, or such council themselves. It is left to the Addn Secretariat to consider if it is necessary in any particular case that the action of the Returning Officer needs to be defended before such sanction is accorded for the expenses being met out of Municipal funds.

Secy (LSG)

NSV

7/11 [illegible]

8/11

17) The Returning Officer (Municipal Comm. Davangere) may be permitted to engage a counsel & pay the prescribed fee from the Municipal funds

18) Sanction to the above proposal may kindly be accorded

Alexr

9-xi'56

Minister, LSG)

15/11 156

19/11

19) Is there no need to get the opinion of the Advocate concerned in support of the expenditure which is sought to be expended out of Municipal funds?

Dy. Secy

Alexr

14/11/56

OFFICE OF THE MINISTER FOR LOCAL SELF GOVERNMENT.

14 NOV

No 141

WD 03738 GPB—P Z S 50 000 Pads 3-56

4412, 0436 2639/

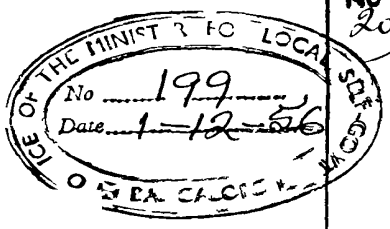
Mys Case nos 582 & 59 of 1956 on the file of the District Judge Shimoga — Municipal Elections - Declaration

Mysore Government Secretariat

File No of 195

[App F III 2

Serial No 20



The Municipal Council have to approve of the action taken by the Municipal Commissioner in having addressed Govt seeking approval to expend the amount He may be requested to place the matter before the Municipal Council and get it ratified Orders of Govt may perhaps issue with these instructions

However it may be noted that the Municipal Council have made a provision of Rs 3,000/- towards Municipal Election Charges (Please see Flag 8 in the Sanctioned Budget Estimates of the Municipality) in the Budget during the current year and that this expenditure of Rs may perhaps be debited to the above head

19/11

21) — Refd para 19

Pr 19/11

22) 'A' May be approved

MP
24/11

DSL S.G

23) 27/11/56 MP 27/11

Sorry (Seq)

(56)

24) 2/11 MP 29/11

25) 1-12-56

Note —Contn Sheet

6412 1636 6426 1957

Pet Case No 58 and 59 of 1958 in the High Ct
of Judicature at Madras — Objection to Secretari
Serial No
File No of 195 Estimates

26) Submitted with a draft GO for approval
9/5/12 Ag SO/12 Under SO 6/12

To

The Addl Commr Examinations for perusal
and kind attn SPO

a o no L129.2-33/EM 120-56-a

By
15/12

DAVANGERE CITY MUNICIPALITY

MYSORE C 4662 F FOR T AT
MUNICIPAL OFFICES 7 AUG 1956
DAVANGERE CITY MUNICIPAL BRANCH

N H C 67/56-57

E 1 2

EDN & L S 30 AUG

Date 29th August 1956

From

THE MUNICIPAL COMMISSIONER
CITY MUNICIPALITY
DAVANGERE

CM 120-56-

To

The Secretary to the Government of Mysore,
Education and L S G Departments,
BANGALORE

Sir

Subj - Mis Case Nos 58 and 59 of 1956 on the file of the - District Judge, Shimoga - Objection petitions filed by Sri Dr B I Gopala Rao (28th Division) and - - Sri K T Shivappa (5th Division) contesting the - validity of the Municipal Elections held on 13-6-56

I write to state that the District Judge, Shimoga has sent me notices in the above two cases requesting me to appear before Court on 3-9-1956 Copies of Election petitions preferred by Dr B I - Gopala Rao and Sri K T Shivappa (received from Court) are enclosed for kind perusal It may kindly be seen therefrom that the petitioners have contested the validity of the general elections held on 13-6-1956 - to reconstitute the Davangere City Municipal Council with effect from 1-7-1956 in respect of Division Nos 28 and 5 respectively

I request you kindly to permit me to engage a Counsel to defend in the above two cases and to incur the necessary expenditure from out of Municipal Funds I have also moved the Court for an adjournment pending receipt of instructions from Government in this behalf

I request the favour of early orders of Government

Yours Faithfully,

(D S Raghavendrachar,)
Municipal Commissioner,
Davangere City Municipality

SPH 2

IN THE COURT OF THE DISTRICT JUDGE & ELECTION COMMISSIONER, SHIMOGA

Election Petition No /56

Petitioner - K T Shivappa son of Thukkappa, 35 years, Cloth Merchant, Sulthanpet, Davangere City

Versus

Respondents 1) Bethur Channabasappa, 38 years, Dalali Mandi, Dodpet, Davangere

2) B Siddalingappa, 40 years, Land Lord, Davangere

3) Nagesha Rao, 45 - merchant, Davangere

4) The Returning Officer, City Municipal Elections, Davangere

Under Section 20 of the City Municipalities Act, the petitioner begs to state as follows -

1) Address of the parties is as stated above

2) The petitioner was a candidate in the 5th Division for the City Municipal Council Election at Davangere which was held on 13-6-1956 The respondents 1 to 3 were also candidates contesting the election The Returning Officer 4th respondent has on 14-6-1956 declared the 1st respondent as duly elected and the same is published in Gazette on 5-7-1956 and hence this petition filed within 10 days is in time

3) The Returning Officer has declared that the candidates have secured the following number of Votes

1st respondent	277
Petitioner	274
2nd respondent	185
3rd respondent	39

4) The Election of the 1st respondent to the Davangere City Municipal Council is not valid and is liable to be set aside on the following grounds viz ,

(a) There were double voting by Voters No 324, 472, 474, 228, 55 and 56 as they had exercised their rights in 19th, 6th, 6th, 7th, 7th and 7th respectively

(b) There was impersonation of Voters in the case of votes Nos 274, 260, 231, 227, 221, 215, 341, 212 and 22

(c) The three voters No 5, 13 and 68 are not competent to vote as they are minors

(d) Many votes counted in favour of the 1st respondent which were invalid have been taken into consideration

(e) The persons who have exercised votes in the aforesaid clauses (a), (b) and (c) have exercised votes in favour of the 1st respondent

5) If the 4th respondent had taken the aforesaid facts mentioned in para 4 into consideration it would have been clear that the petitioner who was the candidate to be duly returned from the 5th Division and hence the petitioner prays that for the aforesaid reasons this Honourable Court may be pleased to get the ballot boxes, voting papers, Counter-foils, voters list etc., and after scrutiny and recounting set aside the election of the 1st respondent and declare the petitioner as duly elected or in the alternative set aside the entire election as void

6) The amount of Rs 100/- is deposited as per rules

Petitioner

Statements made in paras 1 to 6 above are-ture to the best of my knowledge, belief and information

Shimoga,
12-7-1956

Petitioner

"COPY"

(D S Raghavendrachar,)
Municipal Commissioner,
Davangere City Municipality
29/8/56

IN THE COURT OF THE DISTRICT JUDGE AND ELECTION COMMESSIONER, SHIVOGA

Election petition No of 1956

Petitioner — Dr Gopala Rao son of Shama Rao, 50 years, Medical Practitioner, Davangere

Respondents — 1) Pisale Giriyappa, 40 years, Hard-ware merchant, 1st Cross road, P J Extensior Davangere Cty

2) Returning Officer, City Municipal Election, Davangere

Under Sec 20 of the City Municipalities Act, the petitioner begs to submit as follows

1) The address of the parties is as stated above

2) The petitioner and the 1st respondent were candidates in the 28th Division for the Election in the City Municipal Elections at Davangere, which was held on 13-6-1956 The 2nd respondent has declared, on 14-6-56 that the 1st respondent secured 392 votes and the petitioner 390 In the gazette dated 5-7-1956 it is published that the 1st respondent is returned as the Councillor from the 28th Division This petition filed within 10 days from Gazette publication and hence in time

3) The election of the 1st respondent is invalid for the following reasons

(a) Many of the voters in the 28th Division were Polling Officers and election clerks, Police Officials were on Election duty in other Divisions where election was held on the same day The 2nd respondent had not sent the ballot papers to the said voters and hence they could not exercise their votes Many of them though sent the requisition in writing the ballot papers were not sent to the places (Polling booths) where they were on duty

b) Some of the Polling Officials were sent symbol covers without ballot papers in them and some of the such officials have shown their intention in favour of the petitioner and their votes have not been taken into account at the time of counting

P T O

c) There was impersonation in the case of Sl No 61 and 578 who have tendered their votes in sealed covers and it has not been taken into account

d) Many of the invalid votes in favour of the 1st respondent were not rejected and if proper counting is done the 1st respondent to get much less than what is counted in his favour

e) The total number of ballot papers issued and the numbers voted, differ and hence there is a great mistake in the issue of ballot paper

f) There was double voting in many cases

3) Hence the petitioner prays that this Hon'ble Court may be pleased to call for the ballot boxes, voting papers, voters list etc , after scrutiny, set aside the election of the 1st respondent and declare the petitioner as duly elected as he has secured more votes or set aside the entire election ordering fresh election and allow this application with costs

4) The amount of Rs 100/- is tendered as per rules.

Petitioner

Statements made in paras 1 to 4 above are true to the best of my knowledge, belief and information

Shimoga.
12-7-1956

Petitioner.

COPY"

(D S Raghavendrachar,)
Municipal Commissioner,
Davangere City Municipality
29/8/56

No H C 67/56-57

Encl

Office of the Municipal Commissioner
City Municipality

Davangere Dated 9th Octr ,56,

EDUCATION & L S G SECRETARIAT
No
11 OCT 1956
GOVERNMENT OF MYSORE
5636
MUNICIPAL BRANCH

To

The Secretary to the Government of Mysore,
Education & L S G Departments,
B A N G A L O R E

Sir,

Subject - Mis Case No 58 and 59 of 1956 on the file of the District Judge, Shimoga Objection petitions filed by Dr B I Gopala Rao (28th Division) and Sri - K T Shivappa (5th Division) contesting the validity of elections held on 13-6-1956

Reference This Office letter No H C 67/56-57, dated 28-8-1956

With reference to the above subject, I request that orders of Government may kindly be communicated early

Yours Faithfully,

(D S Raghavendrachar,)
Municipal Commissioner,
Davangere City Municipality

SPH

Subdn

The main file bearing Dy No 4412/M1 relating to the above subject has been returned for reference to the Law Dept. If approved this will be placed in the main file of Municipal Section

26/10/56

27/10/56

No H C 67/56-57 6436 Office of the Municipal Commissioner
City Municipality

Encl *Davangere Dated* 14th Novr, 1956

To

The Secretary to the Government of Mysore,
L S G & Public Health Departments,
B A N G A L O R E

16/11/50

Subject - His Case No 58 and 59 of 1956 on the file of the District Judge, Shimoga objection petitions filed by Dr B I Gopala Rao (28th Division) and Sri K T S ivappa (5th Division) contesting the validity of elections held on 13-6-1956

I write to invite kind reference to this office letter of even no dated 28-9-1956 and subsequent reminder dated 9-10-1956 and to request the favour of early orders of Government in the matter

Yours Faithfully,

(D S Raghavendrachar,)
Municipal Commissioner,
Davangere City Municipality

WD 04860—GPB—40 000—29 1

place the matter before the M C C and get their approval to the

G S App F G 3]

MYSORE GOVERNMENT
SECRETARIAT

(Continuation sheet draft form)

CM 120-56-L

Proceedings of the Govt of Mysore
Read
Letter no HC 67/SB-57/7298-56
from the-Pl Comm Davangere Cy-
Pl seeking permission to engage
a-Counsel to defend on the two Cases
nos 58 and 59 of 1956 on the file
of the District-Judge Shimoga,
Contesting the Validity-of the-
General Elections held on 13.6.1956
& reconstitute the Davangere
Cy-Pl Council w.e.f 1.7.1956
in respect of Division nos 28 and 5-
respectively and also to incur
the necessary expenditure from out
of Pl funds-

Read no L 12932-33 dt
8-12-56

The above proposals sanctioned
The Pl. Comm as requested to
place the matter before the Pl Cl
and get their approval to the

WD 04860—GPB—40 000—29 1 4

action taken by them

PROCEEDINGS OF THE GOVERNMENT OF MYSORE

Read:-

Letter No H C 67/56-57, dated the 29th August, 1956 from the Municipal Commissioner, Davangere City Municipality seeking permission to engage a counsel to defend in two cases Nos 58 and 59 of 1956 on the file of the District Judge Shimoga, contesting the validity of the general elections held on 13th June, 1956 to reconstitute the Davangere City Municipal Council with effect from 1st July, 1956 in respect of Division Nos 28 and 5 respectively and also to incur the necessary expenditure from out of Municipal funds

- - - - - - - - -

Order No L 12932-33/CM 120-56 2
Bangalore, Dated the 8-12-56

The above proposal is sanctioned The Municipal Commissioner is requested to place the matter before the Municipal Council and get their approval to the action taken by him

(B R Verma)
for Secretary to Government,
L S G & Public Health Department

To

The Municipal Commissioner, Davangere City Municipality, (through the President),

The Controller, State Accounts Department

L 6 8/12

PROCEEDINGS OF THE GOVERNMENT OF MYSORE

Read -

Letter No H C 67/56-57, dated the 29th August, 1956 from the Municipal Commissioner, Davangere City Municipality seeking permission to engage a counsel to defend in two cases Nos 58 and 59 of 1956 on the file of the District Judge Shimoga, contesting the validity of the general elections held on 13th June, 1956 to reconstitute the Davangere City Municipal Council with effect from 1st July, 1956 in respect of Division Nos 28 and 5 respectively and also to incur the necessary expenditure from out of Municipal funds

- - - - - - - - -

Order No L 12932-38/CM 120-58 2

Bangalore, Dated the 8-12-58

The above proposal is sanctioned The Municipal Commissioner is requested to place the matter before the Municipal Council and get their approval to the action taken by him

(B R Verma)
for Secretary to Government,
L S G & Public Health Department

To

The Municipal Commissioner, Davangere City Municipality, (through the President),

The Controller, State Accounts Department

L 6 8/12